

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	<b>CR. NO. 05-00117-01 HG</b>
	)	
Plaintiff,	)	<b>MEMORANDUM IN SUPPORT OF</b>
	)	<b>MOTION</b>
vs.	)	
	)	
KENNETH CHIO HENG IONG, (01)	)	
	)	
Defendant.	)	
	)	

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MEMORANDUM IN SUPPORT OF MOTION

**Statement of Facts**

On March 23, 2006, the 11 count indictment was returned in this case.

Count 1 of the indictment alleges that Mr. Iong "[o]n or about August 9, 1998, did willfully attempt to evade and defeat a large part of the income tax due and owing by him . . . ."

**Discussion of Law**

26 U.S.C. 6531(2) provides that

No person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws unless the indictment is found or the information instituted within 3 years next after the commission of the offense, except that the period of limitation shall be **6 years—**

(2) for the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof;

As a result of this statute, the applicable period to commence a criminal action is 6 years for tax evasion.

Count 1 alleges a tax evasion offense that occurred on August 9, 1998. The indictment was returned on March 23, 2005. Since prosecution was commenced more than 6 years after the alleged offense occurred, Count 1 must be dismissed.

**Conclusion**

As a result of the foregoing, it is respectfully requested that this motion is granted.

DATED: Honolulu, Hawaii, August 1, 2006.

/s/ David F. Klein  
DAVID F. KLEIN  
Attorney for Defendant  
KENNETH CHIO HENG IONG